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# IN TEN STEPS: THE TAKE DOWN OF MEDICAID BY THE TRUMP ADMINISTRATION & REPUBLICANS IN CONGRESS

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## U.S. SENATOR BOB CASEY



FIGHTING *for a* FAIR SHOT *for* FAMILIES, KIDS *and* SENIORS

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# In Ten Steps: The Take Down of Medicaid by the Trump Administration & Republicans in Congress

## INTRODUCTION

From the day he took office, President Donald Trump and members of his Administration, with the support of Republicans in Congress, have worked to sabotage, decimate and slash funding for Medicaid and put the health care of millions of Americans at risk. Beginning with an Executive Order to undermine the Affordable Care Act (ACA) and a legislative effort to repeal the law, a law that has made it possible for 12 million people to gain health care coverage through Medicaid alone,<sup>1, 2</sup> the Trump Administration and Republicans in Congress made their intentions clear. When their legislative efforts failed, they plowed full speed ahead with administrative destruction, transforming the Centers *for* Medicare & Medicaid Services into the Centers for Medicare & *against* Medicaid. Should they be successful, the health care and services children, families, seniors and people with disabilities have received through Medicaid for over fifty years will be wiped away.

Exposing the Administration's plans to take down Medicaid in plain language for all to see will help put an end to their destructive plans. When taken together, it is clear that the Trump Administration and Republicans in Congress continue to work to takedown Medicaid. Below is their ten point plan.

## STEP 1 OF TRUMP'S PLAN TO TAKE DOWN MEDICAID

### ➤ SETTING THE STAGE TO REPEAL THE ACA AND UNDERMINE MEDICAID ON DAY ONE.

On January 20, 2017, his first day in office, President Trump issued an Executive Order directing all departments and agencies to use their powers to work to dismantle the Affordable Care Act.<sup>3</sup> The Executive Order stated, "To the maximum extent permitted by law, the Secretary of Health and Human Services (Secretary) and the heads of all other executive departments and agencies (agencies) with authorities and responsibilities under the Act shall exercise all authority and discretion available to them to waive, defer, grant exemptions from, or delay the implementation of any provision or requirement of the [Affordable Care] Act...."<sup>4</sup> Make no

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<sup>1</sup>Andis Robeznieks. *How Medicaid expansion has improved care access, outcomes*. American Medical Association, September 27, 2018. <https://www.ama-assn.org/delivering-care/patient-support-advocacy/how-medicaid-expansion-has-improved-care-access-outcomes>

<sup>2</sup> Shefali Luthra. *States Explore Paths To Pay Their Share For Medicaid Expansion - Using Political GPS*. Kaiser Health News, October 24, 2018. <https://khn.org/news/states-explore-paths-to-pay-their-share-for-medicaid-expansion-using-political-gps/>

<sup>3</sup> Julie Hirschfeld Davis, Robert Pear. *Trump Issues Executive Order Scaling Back Parts of Obamacare*. The New York Times, January 20, 2017. <https://www.nytimes.com/2017/01/20/us/politics/trump-executive-order-obamacare.html>

<sup>4</sup> Presidential Executive Order. *Minimizing the Economic Burden of the Patient Protection and Affordable Care Act Pending Repeal*. Issued January 20, 2017. <https://www.federalregister.gov/documents/2017/01/24/2017-01799/minimizing-the-economic-burden-of-the-patient-protection-and-affordable-care-act-pending-repeal>

mistake, this was an order to undercut and undermine the coverage and protections provided by the ACA, including to 12 million low-income Americans who gained coverage through Medicaid expansion.

#### STEP 2 OF TRUMP'S PLAN TO TAKE DOWN MEDICAID

##### ➤ **ENDING MEDICAID AS WE KNOW IT THROUGH BUDGET CUTS.**

From its first budget, and for every budget since, the Trump Administration has sought to cap federal Medicaid spending and shift hundreds of billions of dollars in health and long-term care costs to states and low-income Americans and their families.<sup>5</sup> For fiscal year (FY) 2020, the President proposed to end Medicaid as we know it by capping Medicaid expenditures. The proposal would allow states to sharply depart from the financing structure that has governed Medicaid since it was established. If implemented, the proposal would result in cuts of \$1.5 trillion to the Medicaid program over the next decade.<sup>6</sup> The coverage losses that would result from this radical reduction in expenditures would be devastating to individuals and families across the country. The Center for Budget and Policy Priorities reported approximately 1.7 million people could lose coverage through these policy changes.<sup>7</sup>

#### STEP 3 OF TRUMP'S PLAN TO TAKE DOWN MEDICAID

##### ➤ **PLAN GROUNDHOG DAY ALL OVER AGAIN (AND AGAIN AND AGAIN) WITH REPEATED ATTEMPTS TO REPEAL THE ACA.**

Republicans have voted at least seventy times<sup>8</sup> to repeal the Affordable Care Act (ACA) or slash the consumer protections it provides families. This would include rolling back Medicaid expansion, which has resulted in health coverage for approximately 12 million people, many gaining coverage for the first time ever. The Trump Administration worked closely with Republicans in Congress to repeal the ACA and abolish the Medicaid expansion.

#### STEP 4 OF TRUMP'S PLAN TO TAKE DOWN MEDICAID

##### ➤ **SET STATES UP TO DO THE DIRTY WORK AND ATTACH STRINGS TO EVERY REQUEST.**

On March 14, 2017, the day that CMS Administrator Seema Verma was sworn in to her new role, she and then HHS Secretary Tom Price sent a letter to governors signaling the Administration would welcome waiver proposals that would make it more difficult for individuals to obtain and keep Medicaid coverage. The letter states, "The expansion of Medicaid through the Affordable Care Act (ACA)...was a clear departure from the core, historical mission of the program...The best way to improve the long-term health of low-income Americans is to empower them

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<sup>5</sup> U.S. Department of Health and Human Services. *Putting America's Health First: HHS FY 2018 President's Budget in Brief*. <https://www.hhs.gov/about/budget/fy2018/budget-in-brief/index.html#budget>

<sup>6</sup> U.S. Department of Health and Human Services. *Putting America's Health First: HHS FY 2020 President's Budget in Brief*. <https://www.hhs.gov/sites/default/files/fy-2020-budget-in-brief.pdf>

<sup>7</sup> Paul N. Van de Water, Joel Friedman, Sharon Parrott. *2020 Trump Budget: A Disturbing Vision*. Center on Budget and Policy Priorities, March 11, 2019. <https://www.cbpp.org/research/federal-budget/2020-trump-budget-a-disturbing-vision>

<sup>8</sup> Chris Riotta. *GOP Aims to Kill Obamacare Yet Again after Failing 70 Times*. Newsweek, July 29, 2017. <https://www.newsweek.com/gop-health-care-bill-repeal-and-replace-70-failed-attempts-643832>

with skills and employment.”<sup>9</sup> Through this proposal, Administrator Verma’s first action in her new job was to encourage states to undermine the statutory protections of the Medicaid program and put the health care of millions of low- income Americans at risk. Adding barriers, like a requirement to work in order to access care, could prevent those with mental illness or substance use disorders from receiving treatment. Her actions could cause those with chronic conditions to delay receiving the care and services they need. This action has already resulted in coverage losses in Arkansas. Coverage losses in other locations would have continued to mount had the DC District Court not intervened.

#### STEP 5 OF TRUMP’S PLAN TO TAKE DOWN MEDICAID

##### ➤ **GIVE PRIVATE MANAGED CARE COMPANIES FREE REIN OVER THE MOST VULNERABLE WITH A WINK AND A NOD.**

In 2016, CMS finalized rules to impose greater oversight and accountability on Medicaid managed care companies (MCOs). By the end of 2017, Seema Verma communicated to states and MCOs that the Trump Administration would use “enforcement discretion” when it came to these new rules and was considering a plan to rescind them altogether.<sup>10, 11</sup> With these public statements, insurance company executives regained the ability to limit services and issue service denials without fear of repercussion.

#### STEP 6 OF TRUMP’S PLAN TO TAKE DOWN MEDICAID

##### ➤ **RALLY THE TROOPS.**

On September 27, 2018, Administrator Verma spoke to a room filled with State Medicaid Directors, Medicaid policy staff and stakeholders during the Medicaid Managed Care Summit. During this speech, she hid the Administration’s harmful Medicaid agenda behind words like “innovation” and the premise that people should not be “trapped” on government programs.<sup>12</sup> In reality, her words only served to reaffirm that the Administration intended to continue to promote policies that contradict the law and have the dire effect of eliminating coverage for people who need it.

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<sup>9</sup> Administrator Seema Verma, Former Secretary Tom Price. *Letter to Governors of the United States*. U.S. Department of Health and Human Services, March 14, 2017. <https://www.hhs.gov/sites/default/files/sec-price-admin-verma-ltr.pdf>

<sup>10</sup> Centers for Medicare and Medicaid Services. *CMCS Informational Bulletin: Medicaid Managed Care Regulations with July 1, 2017 Compliance Dates*. U.S. Department of Health and Human Services, June 30, 2017. <https://www.medicaid.gov/federal-policy-guidance/downloads/cib063017.pdf>

<sup>11</sup> Leadership, Medicaid & CHIP. *Speech: Remarks by Administrator Seema Verma at the National Association of Medicaid Directors (NAMD) 2017 Fall Conference*. Centers for Medicare and Medicaid Services, November 7, 2017. <https://www.cms.gov/newsroom/fact-sheets/speech-remarks-administrator-seema-verma-national-association-medicaid-directors-namd-2017-fall>

<sup>12</sup> Leadership, Medicaid & CHIP. *Speech: Remarks by Administrator Seema Verma at the 2018 Medicaid Managed Care Summit*. Centers for Medicare and Medicaid Services, September 27, 2018. <https://www.cms.gov/newsroom/press-releases/speech-remarks-administrator-seema-verma-2018-medicaid-managed-care-summit>

## STEP 7 OF TRUMP'S PLAN TO TAKE DOWN MEDICAID

### ➤ **ENGAGE IN SECRET DISCUSSIONS WITH STATES TO ACCOMPLISH MEDICAID DECIMATION.**

While the desire of the Trump Administration to decimate Medicaid is the worst kept secret in Washington, on January 11, 2019, news broke that the Trump Administration was engaging in negotiations with states to use the Section 1115 waiver process to block grant Medicaid programs.<sup>13</sup> During a Senate Finance Committee Hearing on March 14, 2019, in response to a question from Senator Casey, Secretary Azar said, "We have discussions with states where they will come in and suggest ideas...there may be states that have asked about block granting, per capita restructurings, especially around expansion populations...."<sup>14</sup> During this exchange, it was clear the Administration would do anything in order to takedown Medicaid, including working in secret, behind closed doors – without disclosing key information to Congress – to slash, undermine and reduce coverage.

## STEP 8 OF TRUMP'S PLAN TO TAKE DOWN MEDICAID

### ➤ **FIND LIKEMINDED STATES TO IMPLEMENT THE MASTER DECIMATION PLAN.**

With the encouragement of the Trump Administration, Tennessee and Utah have taken steps to impose spending caps on their Medicaid programs.<sup>15, 16</sup> With only two states proactively seeking an approval of a Medicaid spending cap, Administrator Verma took to using words of encouragement to persuade sympathetic states to apply for block grants generating interest from likeminded governors.<sup>17</sup> In a letter to President Trump, Alaska Governor Michael Dunleavy wrote "Your Medicaid Administrator, Seema Verma, has urged us to be the first state to receive Medicaid dollars as a block grant. We are eager to do this, but your support of her on this 'first' will keep the proper focus on the application."<sup>18</sup> States should not be promised a prize of publicity for kicking people off of coverage.

## STEP 9 OF TRUMP'S PLAN TO TAKE DOWN MEDICAID

### ➤ **SPIN HEALTH COVERAGE LOSS AS GOOD NEWS.**

On January 15, 2019, the Arkansas Department of Human Services announced that over 18,000 individuals lost Medicaid coverage in 2018 as a result of the punitive work requirements

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<sup>13</sup> Peter Sullivan. *Trump Officials Consider Allowing Medicaid Block Grants for States*. The Hill, January 11, 2019. <https://thehill.com/policy/healthcare/424988-trump-officials-consider-allowing-medicaid-block-grants-for-states>

<sup>14</sup> Senate Committee on Finance. *Hearing entitled, The President's Fiscal Year 2020 Budget*, 116<sup>th</sup> Cong. (March 14, 2019) (S. Hrg. 116). <https://www.finance.senate.gov/hearings/the-presidents-fiscal-year-2020-budget>

<sup>15</sup> Sara Rosenbaum. *What a Medicaid Block Grant Would Mean for Tennessee*. The Commonwealth Fund, May 31, 2019. <https://www.commonwealthfund.org/blog/2019/what-medicaid-block-grant-would-mean-tennessee>

<sup>16</sup> Harris Meyer. *Utah Pitches Medicaid Spending Cap to CMS*. Modern Healthcare, May 31, 2019. <https://www.modernhealthcare.com/payment/utah-pitches-medicaid-spending-cap-cms>

<sup>17</sup> Administrator Seema Verma, Former Secretary Tom Price. *Letter to Governors of the United States*. U.S. Department of Health and Human Services, March 14, 2017. <https://www.hhs.gov/sites/default/files/sec-price-admin-verma-ltr.pdf>

<sup>18</sup> Governor Michael J. Dunleavy. *Letter to President Donald J. Trump*. State of Alaska Governor's Office, March 1, 2019. [https://s3-us-west-2.amazonaws.com/ktoo/2019/04/2019-March-GOA-Correspondence.pdf?\\_ga=2.232206559.1558675325.1554835188-1932526076.1554835188](https://s3-us-west-2.amazonaws.com/ktoo/2019/04/2019-March-GOA-Correspondence.pdf?_ga=2.232206559.1558675325.1554835188-1932526076.1554835188)

encouraged and approved by Administrator Verma.<sup>19</sup> Under even the best of scenarios, this loss of coverage to thousands is concerning. But coverage losses do not concern the Trump Administration. In November 2018, Administrator Verma said, “It’s very possible people left the program because they found a job or decided they didn’t want coverage or decided not to participate in the community engagement requirement.”<sup>20</sup> The truth, of course, is that the vast majority of these individuals lost coverage as a result of harmful requirements.<sup>21</sup>

## STEP 10 OF TRUMP’S PLAN TO TAKE DOWN MEDICAID

### ➤ JOIN A HARMFUL LAWSUIT.

In April 2018, a group of states (now 18 in total), led by Texas, filed a complaint in the U.S. District Court for the Northern District of Texas arguing that the ACA’s individual mandate provision is unconstitutional, and that the rest of the law is inseverable and therefore must also be struck down. Despite the ACA being the law of the land for almost a decade, the Trump Administration refused to defend it, leaving that to supporting states. In March 2019, the Administration sent a letter to the Court officially joining the plaintiffs in saying the ACA should be struck down.<sup>22</sup> Should the Administration be victorious, states would be barred from providing Medicaid coverage to approximately 12 million individuals who received it as a result of the law.

## CONCLUSION

President Donald Trump, CMS Administrator Seema Verma and Republicans in Congress continue to use any tactic to sabotage, decimate and slash funding for Medicaid. They are desperate to rip health care coverage away from low-income Americans, which will put the care of millions of Americans at risk. Republican efforts to destroy the Medicaid program as we know it must be met with resistance in Washington and across the Nation. The price of their success – coverage loss for millions of Americans – is far too high to be tolerable.

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<sup>19</sup> Benjamin Hardy. *Over 18,000 Lost Coverage in 2018 due to Medicaid Work Rule, but only Fraction have Reapplied*. Arkansas Times, January 16, 2019. <https://arktimes.com/arkansas-blog/2019/01/16/over-18000-lost-coverage-in-2018-due-to-medicaid-work-rule-but-only-fraction-have-reapplied>

<sup>20</sup> Tina Reed. *CMS’ Seema Verma Says Administration Forging Ahead on Work Requirements as it Examines Arkansas*. Fierce Healthcare, November 28, 2018. <https://www.fiercehealthcare.com/payer/cms-seema-verma-says-administration-forging-ahead-work-requirements-as-it-examines-arkansas>

<sup>21</sup> Catherine Rampell, Leah Nagy, Jason Kane. *With New Work Requirement, Thousands Lose Medicaid Coverage in Arkansas*. PBS News Hours, November 19, 2018. <https://www.pbs.org/newshour/show/with-new-work-requirement-thousands-lose-medicaid-coverage-in-arkansas>

<sup>22</sup> Mary-Beth Musumeci. *Explaining Texas v. U.S.: A Guide to the 5<sup>th</sup> Circuit Appeal in the Case Challenging the ACA*. Kaiser Family Foundation July 3, 2019. <https://www.kff.org/health-reform/issue-brief/explaining-texas-v-u-s-a-guide-to-the-5th-circuit-appeal-in-the-case-challenging-the-aca/>